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STATEMENT OF PROBABLE CAUSE

I, Shawn Russell, have been employed with the Port Authority Police Department ("PAPD") since 1993. I have been assigned to the FBI task force since October 2004, I have been assigned to the John F Kennedy International Airport Resident Agency of the FBI where I investigate violations of Federal law which occur within the airport environment and on board aircraft. Title 49 U.S. Code, Section 46501 establishes the Special Aircraft Jurisdiction of the United States and gives the federal government jurisdiction in all criminal matters occurring on any civil aircraft of the United States while in flight, regardless of departure or arrival location.

This statement of probable cause is in support of a violation notice against Brett A ZORSE with a violation of Title 18, United States Code, Section 113(a)(5): Simple Assault, which occurred on April 12, 2012, onboard jetBlue flight #644 originating in San Francisco Airport (SFO) and arriving at the John F Kennedy International Airport ("JFK"), located in Queens, New York. This is within the special maritime and territorial jurisdiction of the United States.

The facts set forth in this Statement of Probable Cause are based on my personal observations, my training and experience, and information obtained from other law enforcement officers/agents and witnesses. This document is intended to show that there is sufficient probable cause for the requested violation notice and does not allege to set forth all of my knowledge of the investigation regarding this matter.

BACKGROUND

Title 18, United States Code, Section 113 states "Whoever, within the special maritime and territorial jurisdiction of the United States is guilty of an assault shall be punished as follows." Section 113(a)(5) states "Simple assault, by fine under this title or imprisonment for not more than six months."

At the time of the incident, jetBlue flight #644, flying from SFO to JFK, New York, was in the special aircraft jurisdiction of the United States. Brett A ZORSE was a passenger on jetBlue flight #644.

As I explain below, I believe that Brett A ZORSE violated Title 18 U.S.C. § 113(a)(5) Simple assault, by massaging the inner thigh of the complainant on board jetBlue flight #644, en-route to JFK.

SUMMARY OF PROBABLE CAUSE

1. May 02, 2012, law enforcement personnel assigned to the FBI's JFK Resident Agency interviewed the complainant, following the notification, by Port Authority Police, of a sexual assault which occurred on April 12, 2012, on board jetBlue flight #644, en-route to JFK.
2. On May 02, 2012, Federal Air Marshal Stephen Ryczer and I interviewed passenger [REDACTED] a passenger, on jetBlue flight #644, seat 6C.

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a. [REDACTED] reported she was a passenger on board jetBlue flight 644 (SFO - JFK) on April 12, 2012 seated in seat 6C. A male passenger, later identified as Brett ZORSE, was seated next to her in seat 6B. ZORSE was traveling with a 10 year old child.

[REDACTED] reported that prior to take off, ZORSE engaged her in conversation, introducing him self as Brett. ZORSE's conversations throughout the flight all turned to a sexual nature. ZORSE was also very "touchy feely" during the flight. ZORSE at one point even changed [REDACTED] TV channels so she would watch what he was watching. Prior to take off, ZORSE needed to retrieve something out of the overhead bin. [REDACTED] offered to retrieve it by saying "I'll get so you don't have to climb over me". ZORSE replied "I'd really like to climb all over you". [REDACTED] stated she would either not respond to ZORSE or that she did not want to discuss these types of things. One conversation was about anxiety and flying. Approximately 2 1/2 to 3 hours into the flight, ZORSE purchased a drink for [REDACTED]. [REDACTED] told ZORSE she was going to take medication to help her fall asleep, listen to music and that she would see him when they land.

[REDACTED] woke up approximately 40 minutes before landing to ZORSE massaging her thigh underneath her skirt. [REDACTED] asked him what are you doing. ZORSE replied "It's not like I molested you. It's not like I stuck my finger in your pussy or grabbed your tits." ZORSE then said "I wouldn't mind a massage right now." [REDACTED] started crying and went to the bathroom. As she got up ZORSE said "what's the matter you don't trust me anymore?" When [REDACTED] returned to her seat ZORSE was in conversation with the passenger seated in 5C about Landmark, a self help seminar.

Upon landing ZORSE asked for [REDACTED] business card. [REDACTED] said she didn't have any and asked for his. ZORSE gave her his card and stated "Contact me about Landmark, not about how I woke you up."

After exiting the aircraft, [REDACTED] did not go directly to baggage claim because she did not want to see ZORSE. When she did get to baggage claim she was approached by the passenger seated in 5C who told her she has a nice voice. The passenger in 5C may have overheard some of their conversations.

[REDACTED] contacted her friend [REDACTED] regarding the incident on the aircraft. When [REDACTED] arrived home she e-mailed jetBlue regarding the incident. [REDACTED] also contacted the NYPD's Special Victim Unit regarding the incident, who told her to Contact the Port Authority Police. [REDACTED] contacted the PAPD and filed a report.

[REDACTED] has not been in contact ZORSE since the flight landed in NY.

3. On May 23, 2012, Federal Air Marshal Stephen Ryczer and I interviewed passenger Brett A ZORSE, a passenger, on jetBlue flight #644, seat 6B.


a. ZORSE reported he was a passenger on board jetBlue flight 644 (SFO - JFK) on April 12, 2012, seated in seat 6B and was traveling with his 12 year old son. ZORSE reported that he had conversations with the female passenger (FPAX) seated next to him in seat 6C. The conversations were sexual in nature at times and he believed she was flirting with him, telling him he was attractive and he was a good father.

ZORSE reported that during the later portion of the flight he placed his hand on her leg for approximately 30 seconds before she complained about it. ZORSE reported that he did not know she was asleep. ZORSE reported he didn't have his hand up her skirt, he only had his hand on her leg. ZORSE thought he had a "bond" with her and didn't think she would have a problem with his hand on her leg. ZORSE reported he could have said something like "It's not like I stuck my finger up your pussy or grabbed your tits." ZORSE apologized about touching her and he had normal interaction with her for the duration of the flight. ZORSE thinks FPAX even fell asleep again. ZORSE further reported that he recalls FPAX saying something like "maybe when we get together when we get back to NYC."

ZORSE reported that he had a drink prior to take off and a couple on the aircraft. ZORSE can not remember if FPAX had any drinks containing alcohol.

4. Based on the foregoing, I believe there is probable cause to believe that Brett A ZORSE violated Title 18 U.S.C. § 113(a)(5) Simple assault, by massaging the inner thigh of the complainant on board jetBlue flight #644, en-route to JFK.

Dated: May 25, 2012

 #51
Detective Shawn Russell
Port Authority Police Department
FBI - Joint Terrorism Task Force
John F Kennedy International Airport.

06/22/2012